



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,409	12/30/2003	Johanna Jacoba Maria Meulenberg	2183-4041.4US	4880
28501	7590	10/11/2006	EXAMINER	
MICHAEL P. MORRIS BOEHRINGER INGELHEIM CORPORATION 900 RIDGEBURY ROAD P. O. BOX 368 RIDGEFIELD, CT 06877-0368			HILL, MYRON G	
			ART UNIT	PAPER NUMBER
			1648	
DATE MAILED: 10/11/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/750,409	MEULENBERG ET AL.	
	Examiner Myron G. Hill	Art Unit 1648	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 December 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 21-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 21-27 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12/30/03 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>12/12/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

This action is in response to the papers filed 12/30/03.

This action is on claims 21-27.

Priority

Applicant requests interference and points out support for the invention as claimed. While support is noted for the individual words of the claims in this CIP application, it is noted that SEQ ID# 24 is new to this filing. SEQ ID# 24 is the structure/function element of the claim. Thus, the instant application is only given priority to 12/30/03.

Information Disclosure Statement

A signed and initialed copy of the IDS paper filed 2/12/04 is enclosed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 21-27 are rejected under 35 U.S.C. 102(a) as being anticipated by *Calvert et al.* (US 6500662).

The claims are drawn to SEQ ID# 24 or a sequence that hybridizes to SEQ ID# 24 under stringent conditions.

Calvert et al. teach a sequence (SEQ ID# 1) that is 100% identical to the claimed SEQ ID # 24 (see SEQ ID# 1 of the patent).

Thus, *Calvert et al.* anticipate the claimed invention.

Claims 21-27 are rejected under 35 U.S.C. 102(b) as being anticipated by *Calvert et al.* (EP 1018557 A2 pub 12-2000).

The claims are drawn to SEQ ID# 24 or a sequence that hybridizes to SEQ ID# 24 under stringent conditions.

Calvert et al. teach a sequence (SEQ ID# 1) that is 100% identical to the claimed SEQ ID # 24 (see SEQ ID# 1 of the EP document).

Thus, *Calvert et al.* anticipate the claimed invention.

Claims 21-27 are rejected under 35 U.S.C. 102(e) as being anticipated by *Calvert et al.* (US 6500662).

The claims are drawn to SEQ ID# 24 or a sequence that hybridizes to SEQ ID# 24 under stringent conditions.

Calvert *et al.* teach a sequence (SEQ ID# 1) that is 100% identical to the claimed SEQ ID # 24 (see SEQ ID# 1 of the patent).

Thus, Calvert *et al.* anticipate the claimed invention.

Conclusion

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Myron G. Hill whose telephone number is 571-272-0901. The examiner can normally be reached on 8:30 am-5 pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1648

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MR

Myron Hill

Patent Examiner

9/25/06

Bruce Campbell

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600